

Serial No.: 10/587,265  
Atty. Docket No.: P69471US1

**REMARKS**

The Office Action mailed October 18, 2011, has been carefully reviewed and Applicants appreciate the Examiner's withdrawal of finality and issuance of a non-final action.

By this Response, Applicants request reconsideration of the rejection of claim 1. Claims 1-16, 18-28, 32 and 33 are pending in the application. Claims 1, 14, 22 and 29 are independent. Claims 14-16 and 18-28 are withdrawn.

The Examiner rejected claims 1-3, 5-13 and 32-33 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,206,864 to Kavanagh et al. ("Kavanagh"). Also under 35 U.S.C. 103(a), the Examiner rejected claim 4 as being unpatentable over Kavanagh in view of U.S. Patent No. 4,393,080 to Pawelchak et al.

As set forth in claim 1, the present invention is directed to an absorbing element having adhesive properties including hydrocolloids in an elastomeric matrix. At least a part of a first facade of the absorbing element includes a plurality of grottos. The first facade with the grottos is at least part of a skin-contacting surface of the absorbing element. *Each grotto is at least 5 $\mu$ m in diameter, and the average diameter of the plurality of grottos is less than 300 $\mu$ m.* This is not shown or suggested by Kavanagh.

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Kavanagh is directed to an ostomy appliance with inverted triangular faceplate and non-protruding pull tabs. The shape of the faceplate provides for more effective adhesive attachment in those areas requiring greater resistance to pulling forces while reducing the area of adhesive attachment in those areas where excessive contact might cause pinching or other patient discomforts (see column 1, lines 54-60). As shown in Figures 3-5, the bodyside surface 20b of the faceplate's adhesive layer 20 is preferably dimpled or embossed (see column 4, lines 32-39). The purposes and advantages of such dimpling or embossing are stated to be disclosed in U.S. Patent No. 5,811,116 to Gilman et al. ("Gilman"), with the disclosure of Gilman being incorporated by reference into Kavanagh (see column 4, lines 40-43).

While the Examiner acknowledges that Kavanagh does not disclose grottos of the small size claimed by the present invention, the Examiner stated that it would have been obvious to adjust the minimum diameter of the grottos in order to provide more effective adhesive attachment to resist pulling forces in use and to reduce adhesive attachment in the lower region of the ostomy appliance to avoid pinching and other patient discomforts.

The disclosure in Kavanagh as printed does not include any detail about the dimpled or embossed adhesive layer. However,

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Gilman, incorporated by reference within Kavanagh, discloses the purposes and advantages of the dimpling as shown in Kavanagh.

Gilman is directed to an adhesive wafer with an embossed skin-contacting surface. The embossed surface provides "a pattern of discrete, non-connecting depressions or recesses 18 separated and isolated from each other by ridges or shoulders 19" (column 3, lines 40-45). The ridges have flat tops to adhesively contact the skin, while the depressions are sufficiently deep so that the skin surface contacted by the adhesive layer tends to bridge the depressions (column 3, lines 45-51).

Hence, Gilman teaches that the purpose of the embossed surface or dimpling is to reduce the skin contact area of the wafer 12 by having only the ridges 19 that separate the dimples contact the skin. Gilman states that the advantage obtained by having only the ridges contact the skin is that, when the wafer is changed, it is more likely that the skin surfaces contacted by the replacement wafer will not be the same as the skin surfaces that had been contacted by the first wafer. The result is stated to be a reduction in skin irritation (see column 4, lines 30-55).

To achieve the above-stated purpose, Gilman teaches that the depressions need to have a diameter large enough to reduce the possibility of the skin having contact with a barrier material

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within the dimples and to reduce the possibility "that the depressions will become closed or obliterated by deformation of the adhesive material while the wafer is being worn" (column 5, lines 47-62). Accordingly, Gilman states that the measurement across the opening of each depression, i.e., the diameter of the depressions, should fall within the range of between about 0.5 mm to 7 mm (column 5, lines 55-58).

As is evident, the diameter range taught in Gilman is *much larger*, and in some cases *orders of magnitude larger*, than the grotto size claimed by the present invention, with the Gilman depressions ranging from 500  $\mu\text{m}$  to 7,000  $\mu\text{m}$  while claim 1 provides that each grotto is *at least 5 $\mu\text{m}$  in diameter* and the average diameter of the plurality of grottos *is less than 300  $\mu\text{m}$* .

As already noted, the Examiner stated that it would have been obvious to adjust the minimum diameter of each grotto in order to provide more effective adhesive attachment. However, it is clear from the teaching of Gilman that reducing the grotto/depression size to the range provided in claim 1 would be counterproductive to the purposes of Gilman. Specifically, reducing the grotto size to that of claim 1 would necessarily subject more of the same skin to adhesive contact when the wafer is changed, increasing skin irritation and negating the stated purpose

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of the embossing as taught by Gilman (see column 4, lines 30-55). In addition, grottos as small as those of claim 1 would increase the possibilities that the depressions of Gilman would become closed or obliterated by deformation of the adhesive material while the wafer is being worn, also directly contrary to the teaching of Gilman (see column 5, lines 46-53).

For at least the foregoing reasons, the skilled person would *not* contemplate adjusting the size of the grottos/depressions taught in Kavanagh, through Gilman incorporated therein, to the range claimed by the present invention. Therefore, favorable reconsideration, withdrawal of the rejection, and allowance of claim 1 are requested.

Claims 2-13, 32 and 33 are also in condition for allowance as claims properly dependent on an allowable base claim and for the subject matter contained therein.

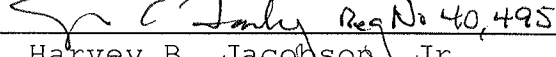
With particular reference to claim 33, the Examiner stated that a product by process limitation does not limit a structure claim. However, claim 33 states that the grottos have a *different surface property* than the remainder of the first façade of the absorbing element. This is a structural limitation and is not shown by the prior art.

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With this amendment and the foregoing remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any questions or comments, the Examiner is cordially invited to telephone the undersigned attorney so that the present application can receive an early Notice of Allowance.

Respectfully submitted,

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